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3. *VERDICT—Conflicting evidence—Benefits and burdens of a contract.* This court will not set aside the verdict of a jury and award a new trial on the ground that the verdict was contrary to the law and evidence, where the evidence is conflicting, and it appears that there was evidence sufficient to justify the verdict. In the case at bar the defendant refused the request of the plaintiff to rescind the contract out of which the plaintiff's claim grew, and insisted on retaining the benefit of it, and it must therefore bear its burdens also.

SMELTZ BROS. v. RIX & BENTLEY.—Decided at Richmond, January 20, 1898.—*Keith, P.* Absent, *Cardwell, J.*:

1. *APPEALS AND ERROR—Amount in Controversy.* The amount in controversy on an appeal from a decree which perpetually enjoins a sale under a deed of trust given to secure notes amounting to \$500, is the whole sum secured.

2. *NEGOTIABLE PAPER—Changes—Alterations.* The maker of a negotiable note who consents to a change of the date of the note cannot thereafter complain of such change as an alteration.

3. *DEED OF TRUST—Security for endorsers or sureties—Security for notes.* Where a deed of trust is given to secure sureties or endorsers and they have incurred no loss or damage the security does not enure to the benefit of the creditor, but the evidence in the case at bar shows that the deed of trust was made by the makers of two notes to secure the payment of the notes themselves, and not merely as security for the endorsers thereof.

TOWNSEND AND OTHERS v. OUTTEN AND OTHERS.—Decided at Richmond, January 20, 1898.—*Buchanan, J.* Absent, *Cardwell, J.*:

1. *DEED—Release of interest—Subsequent assertion of title.* A grantee in a deed who has released all interest in the property conveyed, in consideration of the conveyance to her of other property by the grantor, which last mentioned conveyance was made on condition that she should execute such release, cannot thereafter assert any title or interest under the first mentioned deed.

2. *DEEDS—Partition—Covenant for quiet enjoyment.* A deed which contains no clause of conveyance, but recites that the parties thereto have made partition and division between them of the lands therein mentioned, of which they were seised in fee, and declares what part each is to have, and covenants that neither of them, nor any person claiming under either shall disturb the other in the possession and enjoyment of the part allotted to him, is a mere deed of partition.

3. *DEEDS—Title subsequently acquired—Estoppel—Case in judgment.* A grantor is estopped to claim a title subsequently acquired not only where he has conveyed with a warranty, but also where the deed of conveyance recites, or affirms, expressly or impliedly, that the grantor is seised of a particular estate which the deed purports to convey, and upon the faith of which the bargain is made. But this rule has no application to the case in judgment, as the appellees are not claiming any portion of the land allotted to the grantor of appellants in the deed of partition between him and the grantor of the appellees.